

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
BECKLEY DIVISION

DAVID M. DAUGHERTY,

PLAINTIFF

V.

CIVIL ACTION NO. 5:14-cv-24506

OCWEN LOAN SERVICING, LLC,

DEFENDANT

**PLAINTIFF'S NOTICE OF ELECTION TO ACCEPT THE PUNITIVE  
DAMAGES AWARD OF \$600,000 AND MOTION FOR LEAVE TO SEEK  
APPELLATE ATTORNEYS' FEES**

On July 26, 2017, the Fourth Circuit filed an opinion remanding this matter to this Court and instructed that Mr. Daugherty be provided the option of accepting the reduced punitive damages award of \$600,000 or of proceeding to a new trial on punitive damages. The Fourth Circuit entered the Mandate on August 17, 2017, making its opinion take effect. Plaintiff files this notice to inform the District Court of his election of the option to accept the punitive damages award of \$600,000 per the July 26, 2017 Opinion.

Plaintiff further moves this Court for leave to file a motion to recover appellate attorney fees pursuant to Local Rule 46(e) of the Federal Rules of Appellate Procedure and *Nigh v. Koons Buick Pontiac GMC, Inc.*, 478 F.3d 183 (4th Cir. 2007).

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**CERTIFICATE OF SERVICE**

The undersigned, counsel of record for Appellee, does hereby certify on this 18<sup>th</sup> day of August, 2017, that the required copies of the foregoing **PLAINTIFF'S NOTICE OF ELECTION TO ACCEPT THE PUNITIVE DAMAGES AWARD OF \$600,000 AND MOTION FOR LEAVE TO SEEK APPELLATE ATTORNEYS' FEES** was filed with the Clerk of the Court using the Court's CM/ECF system which will send notification of such filing to the following CM/ECF participants:

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